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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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|-----------------|-------------|----------------------|---------------------|------------------|

10/065,793

11/19/2002

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1416.01

4753

21901 7590 05/13/2008

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EXAMINER

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ART UNIT

PAPER NUMBER

2157

MAIL DATE

DELIVERY MODE

05/13/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte: JAN PHILLIPPE EIRAS  
AND MARTIN RIPPER

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Application No. 10/065,793

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was received at the Board of Patent Appeals and Interferences on March 27, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

EXAMINER'S ANSWER

The Appeal Brief entered August 17, 2007, presents claim 31 as a claim that has been rejected and is under appeal (A. Brief 5). Appellants have included claim 31 as rejected under 35 U.S.C. § 102(e) (A. Brief 8). The Examiner's Answer does not include claim 31 in the ground of rejection (Ans. 3) or any subsequent discussion of the ground of rejection, even though the Examiner agreed with the Appellants grounds of rejection presented for appeal (Ans. 2) and the Advisory Action of May 11, 2005 refers to claim 31 as rejected. Note that the

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